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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,199	10/22/2003	Peter Mardilovich	100204895-1	5652

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EXAMINER
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CHEN, BRET P

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/691,199

Applicant(s)

MARDILOVICH ET AL.

Examiner

B. Chen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 34-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33, 44-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 1-44 are pending in this application.

#### ***Election/Restrictions***

Applicant's election of claims 1-33,44-46 in the reply filed on 9/13/06 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 34-43 are withdrawn from consideration as being directed to a nonelected invention.

#### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

It is noted that the claimed invention is directed solely to a method. The examiner suggests amending the title to reflect same.

#### ***Claim Objections***

Claim 21 is objected to because of the following informalities listed below. Appropriate correction is required.

In claim 21 line 6, the word should be --least--.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-33, 44-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 line 2, the term “mobile metal” is vague and confusing as to what said term means. Furthermore, is the mobile metal part of the codeposition process? Clarification is requested.

In claim 1 lines 2-3, the phrase “causing a mobile metal to diffuse to at least one of a cermet film surface and a ceramic film surface” is deemed vague and confusing. Is this phrase referring to the codeposition step? Specifically, is the metal coming from the codeposition step or the cermet material? If it is the latter, where does the metal come from in the ceramic film surface? In addition, is the metal moving into the material or out of the material in order to make the film porous?

In claim 3, the term “the metal” lacks antecedent basis and/or is confusing as to which metal it is being referred to in claim 1. The examiner will assume that it is referring to the codeposited metal. The same issue applies to claims 8, 11-12.

In claim 10, the term “the gold agglomerates” lacks antecedent basis.

In claim 15, the phrase “further comprises the step of subjecting the ceramic film ... to render a porous cermet film” is deemed vague and confusing because independent claim 1, from

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which claim 15 ultimately depends from, requires the diffusion of the metal to produce a porous film. How does the "further comprising step" above make a porous film porous?

In claim 21 line 5, the phrase "the metal reduces" is vague and confusing. If the metal is referring to the metal in the cermet film, where does the metal come from in the ceramic film. If the metal is not referring to the codeposited metal, which metal is it referring to?

In claim 21 lines 5-7, the phrase "wherein at least a portion of the metal diffuses to a surface of the at least (least) one of the cermet film and the ceramic film" is deemed vague and confusing. Is the metal moving into the material or out of the material in order to make the film porous?

In claim 22, the term "the metal" lacks antecedent basis and/or is confusing as to which metal it is being referred to in claim 21. The examiner will assume that it is referring to the codeposited metal. The same issue applies to claims 24, 26, 29

In claim 32, the term "highly mobile" is deemed a relative term which renders the claim indefinite. The term "highly" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

In claim 32 lines 4-6, the phrase "wherein the highly mobile metal diffuses to and agglomerates on the cermet film surface" is deemed vague and confusing. Is the metal moving into the material or out of the material in order to make the film porous?

In claim 44, the phrase "reducing a metal within at least on of a cermet film and a ceramic film" is vague and confusing. If the metal is referring to the metal in the cermet film,

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where does the metal come from in the ceramic film. If the metal is not referring to the codeposited metal, which metal is it referring to?

In claim 44 lines 3-4, the phrase "causing the metal to diffuse to at least one of a surface of the cermet film and a surface of the ceramic film" is deemed vague and confusing. Is the metal moving into the material or out of the material in order to make the film porous?

Any inquiry concerning this communication or earlier communications from the examiner should be directed to B. Chen whose telephone number is (571) 272-1417. The examiner can normally be reached on 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Bc  
11/26/06

  
**BRET CHEN**  
**PRIMARY EXAMINER**